

Request for Reconsideration under 37 C.F.R. § 1.111  
U.S. Appl. No. 09/841,094

January 27, 2003. Thus, as previously requested,<sup>1</sup> acknowledgement of priority is respectfully requested from the Examiner in the next Office action.

#### Claim Rejections

The Examiner has withdrawn the previous indication of allowability of claims 1, 7 and 8 in view of DE 3040638. Claims 2-6 remain patentable, and would be allowed if rewritten into independent form.

Claim 8 is now rejected under 35 U.S.C. § 102(b) as being anticipated by DE 3040638 (hereinafter “DE ‘638”).

Claims 1 and 7 are now rejected under 35 U.S.C. § 103(a) as being unpatentable over DE ‘638.

#### **Analysis**

Applicants respectfully request the Examiner to reconsider and withdraw the rejections in view of the following.

As to claim 1, the Examiner relies on DE ‘638 for disclosing all the features except the welding, and concludes that welding would have been obvious if it is not otherwise disclosed in DE ‘638. However, DE ‘638 is deficient in many other respects.

First, the upper and lower boom members in DE ‘638 form a rectangular shape rather than a triangle as in claim 1.

Moreover, since the boom members of the present invention form a triangle, the truss braces extend laterally from the upper boom to the lower boom members.<sup>2</sup> This is not possible in

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<sup>1</sup> See July 18, 2003 Amendment; telephone interview of July 15, 2003; January 27, 2003 Amendment.

DE '638 since there are four boom members which form a rectangle (see Figs. 2, 4 and 9), therefore, the alleged truss members do not extend laterally from the upper boom to the lower boom. Rather, in DE '638, they simply extend straight down so as to form right angles.

Second, the truss braces have a completely different structure than the claimed invention. The truss braces of DE '638 do not terminate without a bend; rather, the truss braces wrap around the entire girder structure as clearly illustrated in Figures 2, 5, 6 and 8. Thus, the second ends of the alleged straight brace parts (18, 19) do not terminate without a bend at the alleged lower boom members (4, 5). Still further, the first end of the alleged straight brace parts (i.e., the ends opposite to the alleged second ends) are not connected to each other via a straight bridge piece (14, 15). Rather, these pieces 14, 15 connect separate sides of the trusses together, but certainly do not connect two straight brace parts of a truss brace.<sup>3</sup>

Even if one were to rotate the lattice girder of DE '638 by 180°, wherein the piece 17 is considered the “straight bridge piece” for connecting the straight members 18, 19, the second ends do not terminate without a bend at the “lower” boom members 2, 3. They clearly bend and wrap around these members, and thus, do not (1) terminate (2) without a bend.

Still further, there is no teaching or suggestion for modifying DE '638 to arrive at this claimed structure.

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<sup>2</sup> Claim 1 reads: “wherein said truss braces are arranged in a **symmetrical plane extending laterally** from said upper boom member to an axis of each of said lower boom members” (emphasis added). See also, Fig. 4a.

<sup>3</sup> Claim 1 reads: “wherein **each** of said truss braces has...**two** straight brace parts...connected to **each other** at the **first** end via a straight bridge piece...” (emphasis added)

Also, as mentioned by the Examiner, DE '638 does not disclose welding the second ends to the lower boom members. The rejection does not provide any motivation for modifying DE '638 to use welding, as is required in a proper obviousness rejection. Absent any motivation, the Examiner is requested to provide such a motivation if the obviousness rejection is to be maintained.

In view of the foregoing, a prima facie case of obviousness has not been met, and thus, claim 1 is patentable.

As to claim 7, the Examiner's analysis of DE '638 is unsupported. As mentioned above, the brace parts of the claimed invention have a completely different structure than DE '638. The alleged brace parts 18, 19 of DE '638 do not have one end which is straight, that terminates at the lower boom members without a bend. This analysis holds true whether the boom member 4, 5, or 2, 3 are considered the lower boom members.

Still further, as mentioned above, DE '638 fails to disclose welding cross-ties 14, 15 (or 16) to the truss braces. Moreover, the Examiner has not provided any motivation for modifying DE '638 to have this feature.

In view of the foregoing, claim 7 is patentable.

As to claim 8, similar to the reasons stated above, DE '638 fails to disclose second ends that terminate at a lower boom, wherein such second ends are straight. The Examiner's analysis of DE '638 is faulty; namely, the alleged straight bridge parts 14, 15 do not connect the alleged straight parts 18, 19. As clearly shown in the drawings, the parts 14, 15 connect the separate sides (i.e., 18 to 18 and 19 to 19). Even if one were to assume the Examiner's analysis is proper, the second ends of the parts 18, 19 (i.e., the ends not connected by the parts 14, 15) are not

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straight and do not terminate at the lower boom; rather these ends are curved and also do not terminate since they connect to the piece 17.

In view of the foregoing, claim 8 is also patentable.

### Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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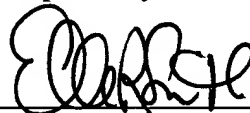
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Respectfully submitted,



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